

**FILED**

**AUG - 1 2017**

Clerk, U.S. District Court  
District Of Montana  
Billings

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

vs.

ANTHONY ALEX ROLL,

Defendant/Movant.

Cause No. CR 11-125-BLG-SPW  
CV 16-079-BLG-SPW

ORDER DENYING § 2255 MOTION  
AND DENYING CERTIFICATE OF  
APPEALABILITY

This case comes before the Court on Defendant Roll's motion to vacate, set aside, or correct the sentence under 28 U.S.C. § 2255. Roll is a federal prisoner proceeding pro se.

Roll contends he is entitled to relief because the Supreme Court's decision in *Johnson v. United States*, \_\_ U.S. \_\_, 135 S. Ct. at 2551 (2015), renders 18 U.S.C. § 924(c)(3)(B) unconstitutionally vague. *See* Mot. § 2255 (Doc. 61) at 1 ¶ 1(b), 4, 6; Br. in Supp. (Doc. 62) at 1, 6.

In this action, No. CR 11-125-BLG-SPW, Roll was not convicted or sentenced under 18 U.S.C. § 924(c). *See* Indictment (Doc. 1) at 1-7; Minutes (Doc. 40); Judgment (Doc. 53) at 1-2. His § 2255 motion is inapposite.

A certificate of appealability is not warranted as Roll has made no showing in this case that he was deprived of a constitutional right. *See* 28 U.S.C. §

2253(c)(2). Roll's motion for the appointment of counsel (Doc. 61-1) need not be addressed. *See* 18 U.S.C. § 3006A(a)(2)(B).

Accordingly, IT IS HEREBY ORDERED as follows:

1. Roll's motion to vacate, set aside, or correct the sentence under 28 U.S.C. § 2255 (Doc. 61) is DENIED;

2. The motion for appointment of counsel (Doc. 61-1) is MOOT;

3. A certificate of appealability is DENIED on all issues;

4. The Clerk of Court shall ensure that all pending motions in this case and in CV 16-79-BLG-SPW are terminated and shall close the civil file by entering a judgment in favor of the United States and against Roll.

DATED this 15<sup>th</sup> day of August, 2017.

  
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Susan P. Watters  
United States District Court